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May 6, 2020

VIA ECF

The Honorable Elizabeth C. Stong
United States Bankruptcy Court
Conrad B. Duberstein Courthouse
271-C Cadman Plaza East
Brooklyn, New York 11201

Re: Golden v. JP Morgan Chase Bank, et al.,
Adversary Proceeding No.: 1-17-ap-01005-ess

Dear Judge Stong:

We are attorneys for defendant Pennsylvania Higher Education Assistance Agency (“PHEAA”). We write with respect to the state of discovery, as raised in the May 1, 2020 letter filed by Adam R. Shaw, Esq., one of plaintiff’s counsel.

We will be prepared to discuss the substantive discovery issues with the Court at tomorrow afternoon’s status conference. We would like to note one fact, however, in advance of the conference.

On April 7, 2020, in connection with PHEAA, Firstmark and the Trust defendants agreeing to search for certain documents in borrower files, Gregory Casamento (one of the Trust defendants’ counsel) advised plaintiff that the very strict stay at home order in Pennsylvania impaired PHEAA’s ability to perform discovery tasks and would require deferral of work. A week later, Mr. Shaw accepted the proposal that Mr. Casamento made and took no issue with PHEAA’s impairment. A copy of that email exchange is attached.



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Thank you for Your Honor's consideration.

Respectfully,

/s/ H. Peter Haveles, Jr.

H. Peter Haveles, Jr.

Enclosure

cc: All counsel of record

Gavidia, Silvana

From: gcasamento@lockelord.com
Sent: Tuesday, April 28, 2020 11:00 AM
To: Haveles, Jr., H. Peter
Cc: Chip Kaplan (ckaplan@perrylawfirm.com); DeRose, R.J; Goodin, Matthew
Subject: FW: Discovery Update

[External Email]

Best,

Greg

Gregory T. Casamento
Managing Partner - New York
Locke Lord LLP
200 Vesey St.
Brookfield Place
New York, New York 10281-2101
212-812-8325 Direct
516-909-9425 Mobile
212-812-8385 Fax
gcasamento@lockelord.com

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From: Adam Shaw <ashaw@bsfllp.com>
Sent: Friday, April 17, 2020 12:06 PM
To: Casamento, Greg <GCasamento@lockelord.com>; Braunstein, Andrew <Andrew.Braunstein@lockelord.com>; DeRose, R.J <RDeRose@lockelord.com>; Fontenelli, Christopher <Christopher.Fontenelli@lockelord.com>; Goodin, Matthew <JMGoodin@lockelord.com>
Cc: George Carpinello <gcarpinello@bsfllp.com>; Bartlett, Tad <TSBartlett@jonesswanson.com>; Berner, Cheryl <cberner@jonesswanson.com>; Burge, Jason W. <jburge@fishmanhaygood.com>; Cowand, Becky <bcowand@jonesswanson.com>; Freiberg, Peter <PFreiberg@jonesswanson.com>; Johnson, Kaki <kjohnson@fishmanhaygood.com>; Grace Reale <greale@bsfllp.com>; Reeves, Lindsay <LReeves@jonesswanson.com>; Smith, Austin <aconnellsmith@gmail.com>; Swanson, Lynn <LSwanson@jonesswanson.com>
Subject: RE: Discovery Update

Greg:

I hope you are doing well.

I write to follow up on your April 7th email in response to our March 11th letter regarding outstanding discovery.

Regarding your clients' offer of a randomized sample set of 35 loan files listed in the Trusts' spreadsheet, we accept the offer, with the caveat that we reserve our rights to further discovery of the rest of the files, and that the sample come from each of the worksheets in the spreadsheet (PHEAA, TSI, Firstmark).

You had previously provided me with dates for the supplemental 30(b)(6) deposition of the Trust and of TSI on April 28 and 30. You said that Mr. Luke would appear for both depositions. Can you let me know whether those dates still work. If so, we would do the depositions by video.

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ARS

On April 7, 2020 at 1:12:56 PM EDT, Casamento, Greg <GCasamento@lockelord.com> wrote:

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Adam,

We write to follow-up plaintiff's March 11 letter, the Trusts' March 13 response to the same and your email below.

Regarding plaintiff's request for the production of emails "about servicing loans" directed at the Trusts, we reiterate that the Trusts do not have emails to search or produce. The Trusts have no direct employees and operate through entities who contracted to undertake certain defined tasks pursuant to the relevant transaction documents that control the Trusts. We have discussed your requests with counsel for the servicers in this action (i.e., PHEAA and Firstmark), and understand that you are negotiating search terms and relating to their email systems. We further understand that you are in the process of doing the same with non-parties. The Trusts do not have the authority to require the servicers or other third parties to search for and produce email communications from those entities' internal email systems. Plaintiff's demands which effectively require the Trusts to make such requests of third parties is redundant to the process you are already engaged in with them and creates a dispute where one does not exist.

With regard to plaintiff's demands that the 2006-4 Trust produce certain documents relating to the origination and certification of loans – namely, the loan review worksheets and the borrowing history worksheets for borrowers – we have conferred with counsel for PHEAA. The search for such documents would require a manual search of each loan file, one at a time, which would be unduly burdensome. Instead, in consultation with PHEAA, we and propose that the Trust initially produce a randomized sample set of 35 loan files listed in the Trust's spreadsheet produced as 2006-4_Golden_001543 involving instances where the borrower declared bankruptcy. To the extent the loan review worksheets and borrowing history worksheets are contained within a loan file in that sample, we will produce the same. Please note, however, we understand that due to PHEAA implementing restrictions due to COVID-19, collecting the 35 loan files may not be possible while those public health measures are in place. Nonetheless, we intend to work with PHEAA to collect and produce the sample set.

Thanks and we hope everyone is safe and healthy.

Best,

Greg

Gregory T. Casamento

Managing Partner - New York

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From: Adam Shaw <ashaw@bsfllp.com>

Sent: Wednesday, April 1, 2020 12:04 PM

To: Casamento, Greg <GCasamento@lockelord.com>; Braunstein, Andrew

<Andrew.Braunstein@lockelord.com>; DeRose, R.J. <RDeRose@lockelord.com>; Fontenelli, Christopher

<Christopher.Fontenelli@lockelord.com>; Goodin, Matthew <JMGoodin@lockelord.com>

Cc: George Carpinello <gcarpinello@bsfllp.com>; Bartlett, Tad <TSBartlett@jonesswanson.com>; Berner, Cheryl

<cberner@jonesswanson.com>; Burge, Jason W. <jburge@fishmanhaygood.com>; Cowand, Becky

<bcowand@jonesswanson.com>; Freiberg, Peter <PFreiberg@jonesswanson.com>; Johnson, Kaki

<kjohnson@fishmanhaygood.com>; Grace Reale <greale@bsfllp.com>; Reeves, Lindsay

<LReeves@jonesswanson.com>; Smith, Austin <aconnellsmith@gmail.com>; Swanson, Lynn

<LSwanson@jonesswanson.com>

Subject: RE: Discovery Update

That is agreeable.

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ARS

On April 1, 2020 at 11:48:43 AM EDT, Casamento, Greg <GCasamento@lockelord.com> wrote:

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Hi Adam,

We are checking on these requests but the current situation has made things move much slower than normal. We expect to be able to get back to you by the end of next week so respectfully request that wait until that time to discuss whether anyone needs to go to the court for anything. Please let me know if that is acceptable to you. Thanks.

Best,

Greg

Gregory T. Casamento

Managing Partner - New York

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From: Adam Shaw <ashaw@bsfllp.com>

Sent: Monday, March 30, 2020 12:18 PM

To: Braunstein, Andrew <Andrew.Braunstein@lockelord.com>; Casamento, Greg

<GCasamento@lockelord.com>; DeRose, R.J <RDeRose@lockelord.com>; Fontenelli, Christopher

<Christopher.Fontenelli@lockelord.com>; Goodin, Matthew <JMGoodin@lockelord.com>

Cc: George Carpinello <gcarpinello@bsfllp.com>; Bartlett, Tad <TSBartlett@jonesswanson.com>;

Berner, Cheryl <cberner@jonesswanson.com>; Burge, Jason W. <jburge@fishmanhaygood.com>;

Cowand, Becky <bcowand@jonesswanson.com>; Freiberg, Peter <PFreiberg@jonesswanson.com>;

Johnson, Kaki <kjohnson@fishmanhaygood.com>; Grace Reale <greale@bsfllp.com>; Reeves, Lindsay

<LReeves@jonesswanson.com>; Smith, Austin <aconnellsmith@gmail.com>; Swanson, Lynn

<LSwanson@jonesswanson.com>

Subject: Re: Discovery Update

Greg:

I hope you are doing well.

I am following up on our meet and confer call on February 27, 2020 and my letter sent on March 11, 2020 regarding outstanding discovery issues to GS2 and NCT.

Can you let me know by Wednesday April 1, 2020 when you will produce the information; otherwise we may seek court intervention.

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ARS

On March 11, 2020 at 5:21:43 PM EDT, Grace Reale <greale@bsfllp.com> wrote:

Counsel:

Please see attached.

Grace E Reale

Staff Attorney

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30 South Pearl Street

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<2020-03-11 Ltr from ARS to Casamento.pdf>

<2020-03-11 2nd Ltr from ARS to Casamento.pdf>

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